



Development Services Department  
Planning & Zoning Division

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6591 ORANGE DRIVE • DAVIE, FLORIDA 33314-3399  
PHONE: 954.797.1103 • FAX: 954.797.1204 • WWW.DAVIE-FL.GOV

**MEMORANDUM**

PZ 5-5-06

**TO:** Town Council Members and Mayor

**THRU:** Ken Cohen, Acting Town Administrator  
Mark A. Kutney, AICP, Development Services Director  
Bruce Dell, Planning & Zoning Manager

**FROM:** Ingrid Allen, Planner II

**DATE:** April 20, 2006

**RE:** V 2-1-06/O'Connor

**REQUEST:**

Staff is requesting that the above referenced item, currently scheduled for the May 17, 2006 Town Council meeting, be tabled to the June 7, 2006 meeting. This is the first (1) request for deferral.

**JUSTIFICATION:**

The petitioner must submit a site plan for the proposed residential addition and must also provide a Home Owner Association (HOA) approval letter.

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/  
(954) 797-1101

**PREPARED BY:** Ingrid Allen, Planner II

**SUBJECT:** Quasi Judicial Hearing: Variance, V 2-1-06 O'Connor, 2273 SW 132 Way, Generally located on the west side of SW 132 Way, approximately 900 feet south of SW 21<sup>st</sup> Place.

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** V 2-1-06 O'Connor, 2273 SW 132 Way (A-1)

**REPORT IN BRIEF:** The petitioner is requesting to reduce the required side setback of the A-1, Agricultural District, by 5' in order to allow the construction of an addition to the existing single-family residence on the property. Section 12-287 (B) of the Land Development Code requires a minimum 30' side setback from the property line in the A-1, Agricultural District.

The petitioner is requesting to reduce the side setback from 30' to 25'. The justification by the petitioner for this variance is that the existing home was been built with a 25' side setback and therefore the proposed addition should be constructed in line with the existing home. Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a twenty-five (25) foot side setback.

According to §12-81 (A) of the Land Development Code, Table of Conventional Single Family Development Standards, A-1, Agricultural District, requires a minimum lot area of 35,000 square feet, 140' frontage, 40'-50' staggered front setback, 30' side setbacks, 35' rear setbacks, 35' maximum building height, and 25 percent maximum building coverage.

The subject site is a single-family residential home approximately 35,100 square feet. The land use for parcels adjacent to the north, south, east and west of the subject site are all Residential 1 dwelling unit per acre.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** None

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application not complete or suitable for transmittal to the Town Council for further consideration.

**Attachment(s):** Planning Report, Justification letter, Survey, Future Land Use Plan Map, Zoning and Aerial Map

**Application:** V 2-1-06 O'Connor  
**Exhibit "A"**

**Revisions:** 5/4/06  
**Original Report**  
**Date:** 3/31/06

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division**  
*Staff Report and Recommendation*

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**Applicant Information**

<b><u>Owner:</u></b>		<b><u>Petitioner:</u></b>	
<b>Name:</b>	Chris O'Connor	<b>Name:</b>	Hollingsbrook & Mather, Inc. Wes Curran, Agent
<b>Address:</b>	2273 SW 132 Way	<b>Address:</b>	10693 Wiles Road # 208
<b>City:</b>	Davie, FL 33325	<b>City:</b>	Coral Springs, FL 33076
<b>Phone:</b>	(954) 474-4547	<b>Phone:</b>	(954) 323-8913

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**Background Information**

**Date of Notification:** April 19, 2006      **Number of Notifications:** 63

**Application History:** No deferrals have been requested.

**Application Request:** Variance **FROM:** Section 12-287(B) of the Land Development Code, which requires a minimum 30' side setback from the property line in the A-1, Agricultural District; **TO:** reduce the side setback to 25' so that an addition may be constructed in line with the 25' side setback of the existing home.

**Address/Location:** 2273 SW 132 Way/Generally located on the west side of SW 132 Way, approximately 900 feet south of SW 21<sup>st</sup> Place.

**Future Land Use**

**Plan Map Designation:** Residential (1 DU/AC)

**Zoning:** A-1, Agricultural District

**Existing Use:** Single-family residential dwelling unit

**Parcel Size:** approximately 35,100 square feet

	<u>Surrounding Uses:</u>	<u>Surrounding Future Land Use Plan Map Designations:</u>
<b>North:</b>	Single family dwelling	Residential (1 DU/ AC)
<b>South:</b>	Single family dwelling	Residential (1 DU/ AC)
<b>East:</b>	Single family dwelling	Residential (1 DU/ AC)
<b>West:</b>	Van Kirk Groves	Residential (1 DU/ AC)

**Surrounding Zoning:**

**North:** A-1, Agricultural District  
**South:** A-1, Agricultural District  
**East:** A-1, Agricultural District  
**West:** RS, Recreation/Open Space District

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### **Zoning History**

**Plat:** The subdivision plat, Emerald Springs Homes of Davie, was approved by Town Council on March 21, 1990 and was later recorded by the County in Book 149 of plats at page 48 of the public records of Broward County, Florida.

**Site Plan:** The site plan, SP 9-2-93 Emerald Springs Homes of Davie, was approved by Town Council on October 20, 1993.

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### **Application Details**

The applicant has requested a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 30' side setbacks in the A-1, Agricultural District; to reduce the side setback of the property to 25' so that an addition may be constructed in line with the 25' side setback of the existing home. At the time of site plan approval the side setback in the A-1, Agricultural District was 25'. The adoption of the Rural Lifestyle Initiative changed the minimum side setback in the A-1, Agricultural District to 30'.

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### **Applicable Codes and Ordinances**

§12-24 (I)(1) Agricultural (A-1) District: The A-1 district is intended to implement the Agricultural and Residential one (1) unit per acre classifications of the Town of Davie Comprehensive Plan and to maintain, protect and encourage

the continuance of a productive agricultural community in Davie by ensuring that developments are buffered from existing agricultural uses.

§12-81 (A) Conventional Single Family Development Standards, A-1, Agricultural District, requires the following minimums: lot area of 35,000 square feet, 140' frontage, 40'-50' staggered front setback, 30' side setbacks, 35' rear setbacks, 35' maximum building height, and 25 percent maximum building coverage.

Article IX. Rural Lifestyle Regulations, Ordinance No. 2002-35, adopted on October 16, 2002.

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### **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

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### **Staff Analysis**

The applicant's request is to reduce the required side setback of the A-1, Agricultural District by 5' in order to allow the construction of an addition to an existing single family residence. The addition shall not exceed the maximum lot coverage of 25 %.

The justification by the applicant for this variance is that the existing home has been built with a 25' side setback. In review of the survey, staff concludes that while it may seem logical to build an addition in line with an existing structure, the parcel and existing home can accommodate an addition with a 30' side setback.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in the Emerald Springs subdivision currently

have a 25' side setback. In the A-1, Agricultural District, the RLI provides for 30' side setbacks creating a 60' separation between all new structures. Granting a variance to allow a 25' side setback for the addition would result in maintaining the existing 50' separation between structures.

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## Findings of Fact

### **Variances:**

#### **Section 12-309(B) (1):**

**The following findings of facts apply to the variance request:**

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

*The parcel and existing home can support an addition that does not require a variance. While the design of the addition logically aligns with the existing side setback of 25', a plan that includes all of the desired amenities can be designed with a 30' side setback.*

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

*The required 30' side setback applies equally to properties within this development and within the A-1, Agricultural zoning district.*

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

*The parcel is being reasonably used now without a variance, and an addition can be constructed within the required 30' side setback.*

and that alleged hardship is self-created by any person having an interest in the property.

*The need for a variance is created by the owner's desire for an addition in line with the existing home.*

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

*This parcel is being reasonably be used now; however the request is the minimum needed to allow an addition that is in line with the existing home.*

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side setback to be reduced from 30' to 25' to construct the proposed addition will not be detrimental to the adjacent properties.*

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### **Staff Recommendation**

Staff does not find the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

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### **Planning and Zoning Board Recommendation**

At the April 26, 2006 Planning and Zoning Board meeting, Vice-Chair McLaughlin made a motion, seconded by Mr. Stevens, to table V 2-1-06 to May 10, 2006. (Motion carried 4-0).

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### **Town Council Action**

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### **Exhibits**

1. Justification
2. Survey
3. Future Land Use Plan Map
4. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_





## Hollingsbrook & Mather, Inc.

10693 Wiles Road #208  
Coral Springs, FL 33076

voice (954) 323-8913  
faxes (954) 323-8913

February 17, 2006

Mr. Chris Gratz  
Town of Davie  
Planning and Zoning Division  
Development Services Department

RE: Request for side set-back zoning variance  
Subject Property: 2273 SW 132nd Way Lot 23 EMERALD SPRINGS HOMES OF DAVIE

Dear Mr. Gratz,

### Zoning Variance Justification Letter

We hereby request that a variance be granted for the parcel above referenced to a side yard set-back of 25' from the property line. The reason for this request is to permit the construction of an addition to an existing single family residences on the property.

We believe that our request is in keeping with the letter and spirit of the Town's Code of Ordinances as follows:

- 1) There are special circumstances or conditions applying to the land or building for which the variance is sought.
  - a) The community was built based upon a side yard set-back requirement of 25' and that the set-back requirements were subsequently changed, and
  - b) These circumstances or conditions are peculiar to this community at large as all homes in this subdivision are currently built to within 25' of their property line, and
  - c) That the strict application of the current zoning set-back requirement would deprive the applicant of the reasonable use of their property for which the variance is sought, and
  - d) This condition is not self-created by any person having an interest in the property.
- 2) The granting of the variance is necessary for the reasonable use of the property and that the variance as requested is the minimum variance that will accomplish the home owner's purpose.
- 3) The granting of the variance will be in keeping with the spirit of the Town's codes as it is not the Town's intent to deprive the Owner of reasonable use of his property through down zoning.
  - a) Further we state that granting the variance will cause no injury to the neighbors as all other properties in the community are already built to the set-back being requested.
- 4) The proposed change will not negatively impact living conditions in the area.
- 5) The proposed change does not constitute a special grant or privilege.

As such, please find our application for variance affixed, and thanks in advance for your prompt attention to this matter.

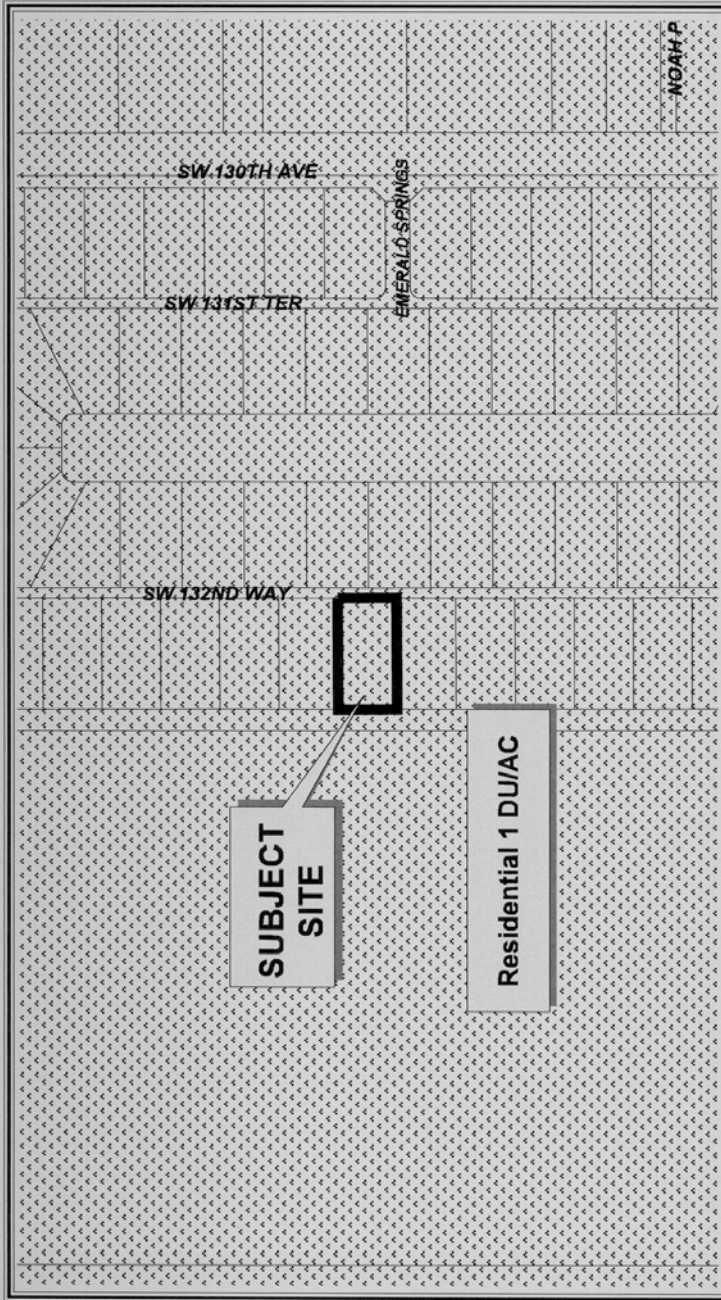
Sincerely,

Wesley Curran, PBD, CGC  
As agent for Owner

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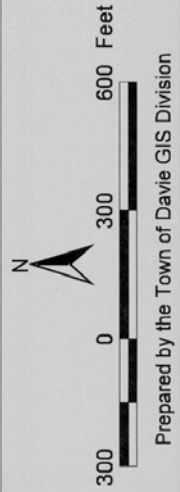
Commercial, Residential, Design, Build-Outs, Remodeling

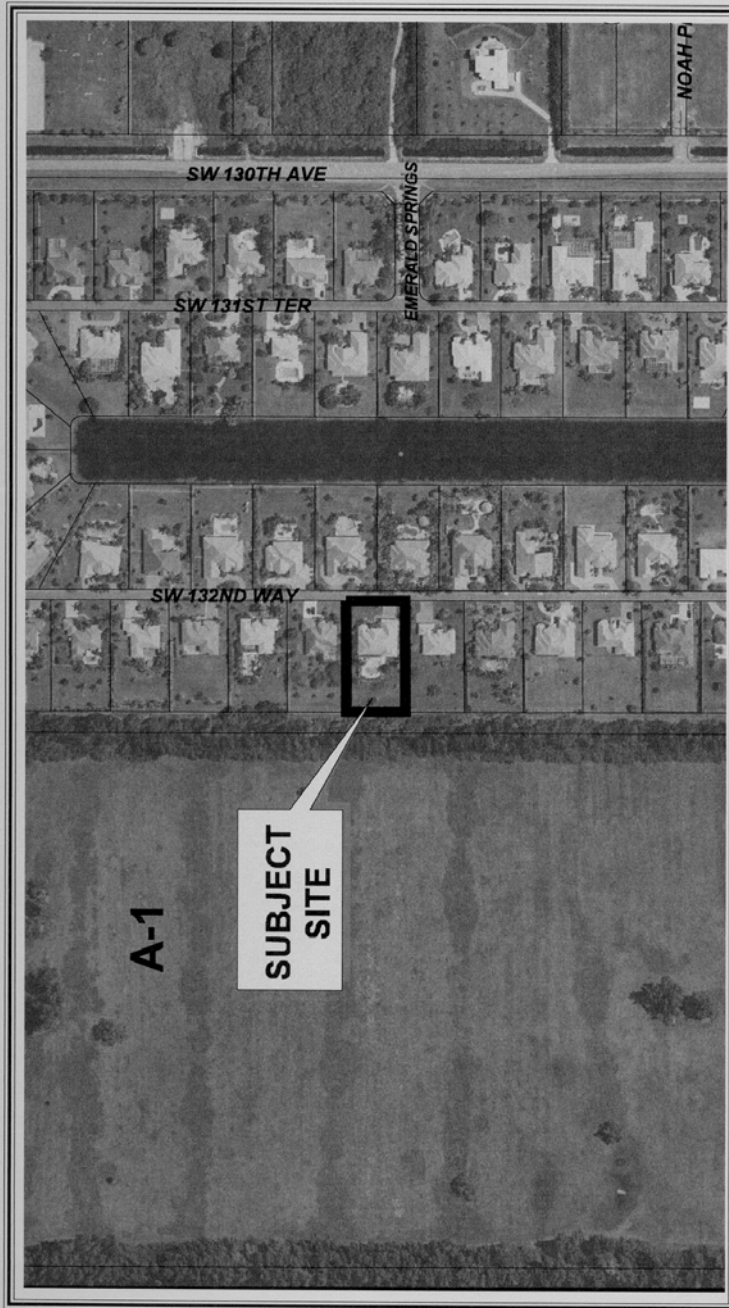




**VARIANCE  
V 2-1-06  
Future Land Use Map**

Prepared By: ID  
Date Prepared: 3/20/06





Date Flown:  
12/31/04



Prepared by the Town of Davie GIS Division

# VARIANCE V 2-1-06 Zoning and Aerial Map

Prepared By: ID  
Date Prepared: 3/20/06

